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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/523,595	03/10/2000	Paul Raymond Higginbottom	169.1628	5956

5514 7590 11/30/2004

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EXAMINER

DANG, DUY M

ART UNIT PAPER NUMBER

2621

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/523,595	Applicant(s) HIGGINBOTTOM ET AL.	
	Examiner Duy M Dang	Art Unit 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 and 48-51 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-46 and 48-51 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: |

DETAILED ACTION

1. Applicant's amendment filed 9/2/04 has been entered and made of record.

2. This application is in condition for allowance except for the following formal matters:

Claims 1, 10, 20, and 28 are objected under 37 CFR 1.75(a) for not pointing out and distinctly claiming the subject matter which the applicant regards as his invention. The reasons are as follows:

-The following terms, for example, lack suitable antecedent basis: "the specified size" in claim 1 step d) line 2, claim 20 step h) lines 2-3, and claim 28 step d) lines 2-3; "the current level" in claim 10 step e) line 1.

-The term "dimension" in line 5 of claims 1, 20-21, 50-51, and line 6 of claims 28 and 37 ought to be changed to "dimensions" (plural). Appropriate correction is required.

3. Prosecution on the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.

4. A shortened statutory period for reply to this action is set to expire TWO MONTHS from the mailing date of this letter.

5. Applicant's arguments, see pages 26-28, filed 9/2/04, with respect to claims 1-46 and 48-51 have been fully considered and

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are persuasive. The rejection of such claims has been withdrawn.

6. Claims 1-46 and 48-51 are allowed.

Regarding claim 1, the closest cited prior art fails to teach or suggest the features recited in steps d-e. Dependent claims 2-9 are also allowed for the same reasons as above.

Regarding claim 10, the closest cited prior art fails to teach or suggest the features recited steps e-f. Dependent claims 11-19 are also allowed for the same reasons as above.

Claims 20-36 and 48-51 are also allowed for the same reasons as set forth in claim 1 above.

Claims 37-46 are also allowed for the same reasons as set forth in claim 10 above.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duy M Dang whose telephone number is 703-305-1464. The examiner can normally be reached on Monday to Friday from 5:30AM to 2:00PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo H Boudreau can be reached on 703-305-4706. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dmd

dmd
11/23/04



LEO BOUDREAU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600